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WESTERN UNION TELEGRAPH CO. *v.* BOWLES.

March 13, 1919.

[98 S. E. 645.]

1. **Commerce (§ 28*)—Nature of—Transmission of Messages.**—Transmission of intelligence by wire is commerce.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 541.]

2. **Commerce (§ 8 (7)*)—Interstate Commerce—Regulation—Telegraph Companies.**—Congress by Act Feb. 4, 1887, to regulate commerce, as amended by Act June 18, 1910, has occupied the whole field of regulation with respect to interstate telegrams, and has thus ousted the state of its jurisdiction over the subject.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 541.]

3. **Commerce (§ 28*)—Interstate Commerce—Transmission of Messages.**—The transmission of a message between two points in a state which in the course of its transmission passed out of the state is interstate commerce, though the message in the first instance passed through point of destination, and could have been sent there direct, where the route by which it was sent afforded the quickest service and was the one in regular use.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 874; 17 Va.-W. Va. Enc. Dig. 541.]

4. **Commerce (§ 8 (7)*)—Interstate Commerce—Regulation of Telegraph Companies.**—Where message passes out of state during transmission and becomes an interstate message, the state, in view of Act of June 18, 1910, loses its jurisdiction, and has no right to say that the message should have been sent by a different route.

[Ed. Note.—For other cases, see 16 Va.-W. Va. Enc. Dig. 1201.]

5. **Commerce (§ 59*)—Interstate Commerce—Telegraph Companies.**—In view of Act Cong. Feb. 4, 1887, to regulate commerce, as amended by Act June 18, 1910, depriving the state of its jurisdiction over regulation of interstate messages, Act approved March 21, 1916 (Acts 1916, c. 439), defining interstate messages, is invalid, being an attempt to legislate upon the subject over which the state has no jurisdiction.

6. **Courts (§ 97 (5)*)—Decisions—Interstate Commerce.**—Upon the question of what constitutes interstate commerce, the state laws must give way to federal law as laid down by federal judicial decisions.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 867.]

7. **Commerce (§ 8 (1)*)—Interstate Commerce—Laws Applicable.**—On the question of interstate commerce, state laws must give way

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

to federal laws, whether such laws take the form of judicial decisions or legislative enactments.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 867.]

8. Courts (§ 366 (1)*)—Decisions—Construction of State Laws.—Upon all questions arising under the Constitutions and laws, where nothing is involved of national authority or national right, the federal courts are bound to accept the construction placed by the courts of the state upon its Constitution and statutes whenever the former courts are called upon to decide similar questions.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 153.]

Error to Circuit Court, Henry County.

Action by I. S. Bowles against the Western Union Telegraph Company. Judgment for plaintiff, and defendant brings error. Reversed.

Whittle & Whittle, of Martinsville, and *Hughes, Little & Seawell*, of Norfolk, for plaintiff in error.

Wm. M. Peyton, and *I. M. Cilngeneel*, both of Martinsville, for defendant in error.

ADAMS v. TRI-CITY AMUSEMENT CO., Inc.

March 13, 1919.

[98 S. E. 647.]

1. Contracts (§ 302*)—Building—Defect in Walls—Liability.—A building contractor cannot be held responsible for defect in not having walls of a building heavy enough to stand in wet ground, where he followed the plans and specifications furnished by the architect as the agent of the owner.

2. Contracts (§ 232 (2)*)—Building Contracts—Unforeseen Accident—Agreement for Reconstruction.—Where the wall of a building in construction fell, not by contractor's fault, but because of defective plans, its re-erection by the architect's directions, contractor and owner each to bear half of the expenses, cannot, upon owner's complaint, be said to be inequitable, particularly where the owner's president, general manager, and corporate directors were informed of and agreed to such re-erection.

3. Corporations (§ 432 (12)*)—Contract—Evidence.—Evidence held to show that a letter from the defendant corporation's general manager to contractor authorizing the re-construction of a wall at cost plus 10 per cent., of which the treasurer had notice, had come to the general knowledge of the corporation, and that the corporation agreed to it by acquiescence.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.